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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

David Lucero,  Plaintiff,  v.  Smith-Paluck Associates Corp. d/b/a/ Las Vegas Athletic Clubs,  Defendant.	Case No. 2:17-cv-01399-JAD-CWH  <b>[PROPOSED] STIPULATED PROTECTIVE ORDER</b>
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IT IS HEREBY STIPULATED by and between Plaintiff David Lucero (“Plaintiff”) and Defendant Smith-Paluck Associates Corp. d/b/a/ Las Vegas Athletic Clubs (collectively, the “Parties”), by and through their counsel of record, as follows:

WHEREAS, documents and information have been and may be sought, produced or exhibited by and among the parties to this action relating to trade secrets, confidential research, development, technology or other proprietary information

1 belonging to the defendants and/or personal income, credit and other confidential  
2 information of Plaintiff.

3 THEREFORE, an Order of this Court protecting such confidential information  
4 shall be and hereby is made by this Court on the following terms:

5 1. This Order shall govern the use, handling and disclosure of all documents,  
6 testimony or information produced or given in this action which are designated  
7 to be subject to this Order in accordance with the terms hereof.

8 2. Any party or non-party producing or filing documents or other materials in this  
9 action may designate such materials and the information contained therein  
10 subject to this Order by typing or stamping on the front of the document, or on  
11 the portion(s) of the document for which confidential treatment is designated,  
12 “Confidential.”

13 3. To the extent any motions, briefs, pleadings, deposition transcripts, or other  
14 papers to be filed with the Court incorporate documents or information subject  
15 to this Order, the party filing such papers shall designate such materials, or  
16 portions thereof, as “Confidential,” and shall file them with the clerk under seal;  
17 provided, however, that a copy of such filing having the confidential  
18 information deleted therefrom may be made part of the public record. Any  
19 party filing any document under seal must comply with the requirements of  
20 Local Rules.

21 4. All documents, transcripts, or other materials subject to this Order, and all  
22 information derived therefrom (including, but not limited to, all testimony,  
23 deposition, or otherwise, that refers, reflects or otherwise discusses any  
24 information designated Confidential hereunder), shall not be used, directly or  
25 indirectly, by any Party, commercial or competitive purposes or for any  
26 purpose whatsoever other than solely for the preparation and trial of this action  
27 in accordance with the provisions of this Order.  
28

1 5. All depositions or portions of depositions taken in this action that contain  
2 confidential information may be designated as “Confidential” and thereby  
3 obtain the protections accorded other confidential information. The parties shall  
4 have twenty-one (21) days from the date a deposition is taken, or fourteen (14)  
5 days from the date a deposition transcript is received, whichever date is greater,  
6 to serve a notice to all parties designating portions as “Confidential.” Until  
7 such time, all deposition testimony shall be treated as confidential information.  
8 To the extent any designations are made on the record during the deposition,  
9 the designating party need not serve a notice re-designating those portions of  
10 the transcript as confidential information. Any party may challenge any such  
11 designation in accordance with Paragraph 14 of this Order.

12 6. Except with the prior written consent of the individual or entity designating a  
13 document or portions of a document as “Confidential,” or pursuant to prior  
14 Order after notice, any document, transcript or pleading given “Confidential”  
15 treatment under this Order, and any information contained in, or derived from  
16 any such materials (including but not limited to, all deposition testimony that  
17 refers, reflects or otherwise discusses any information designated confidential  
18 hereunder) may not be disclosed other than in accordance with this Order and  
19 may not be disclosed to any person other than: (a) the Court and its officers; (b)  
20 parties to this litigation; (c) counsel for the parties, whether retained counsel or  
21 in-house counsel and employees of counsel assigned to assist such counsel in  
22 the preparation of this litigation; (d) fact witnesses subject to a proffer to the  
23 Court or a stipulation of the parties that such witnesses need to know such  
24 information; (e) present or former employees of the producing party in  
25 connection with their depositions in this action (provided that no former  
26 employees shall be shown documents prepared after the date of his or her  
27 departure); and (f) experts specifically retained as consultants or expert  
28 witnesses in connection with this litigation.

- 1 7. Documents produced pursuant to this Order shall not be made available to any  
2 person designated in Subparagraph 6 (f) unless he or she shall have first read  
3 this Order, agreed to be bound by its terms, and signed the attached Declaration  
4 of Compliance.
- 5 8. Third parties who are the subject of discovery requests, subpoenas or  
6 depositions in this case may take advantage of the provisions of this Protective  
7 Order by providing the parties with written notice that they intend to comply  
8 with and be bound by the terms of this Protective Order.
- 9 9. All persons receiving any or all documents produced pursuant to this Order  
10 shall be advised of their confidential nature. All persons to whom confidential  
11 information and/or documents are disclosed are hereby enjoined from  
12 disclosing same to any person except as provided herein, and are further  
13 enjoined from using same except in the preparation for and trial of the above-  
14 captioned action between the named parties thereto. No person receiving or  
15 reviewing such confidential documents, information or transcript shall  
16 disseminate or disclose them to any person other than those described above in  
17 Paragraph 6 and for the purposes specified, and in no event, shall such person  
18 make any other use of such document or transcript.
- 19 10. Nothing in this Order shall prevent a party from using at trial any information  
20 or materials designated “Confidential.”
- 21 11. This Order has been agreed to by the parties to facilitate discovery and the  
22 production of relevant evidence in this action. Neither the entry of this Order,  
23 nor the designation of any information, document, or the like as “Confidential,”  
24 nor the failure to make such designation, shall constitute evidence with respect  
25 to any issue in this action.
- 26 12. Inadvertent failure to designate any document, transcript, or other materials  
27 “Confidential” will not constitute a waiver of an otherwise valid claim of  
28 confidentiality pursuant to this Order, so long as a claim of confidentiality is

1 promptly asserted after discovery of the inadvertent failure. If a party  
2 designates a document as “Confidential” after it was initially produced, the  
3 receiving party, on notification of the designation, must make a reasonable  
4 effort to assure that the document is treated in accordance with the provisions  
5 of this Order, and upon request from the producing party certify that the  
6 designated documents have been maintained as confidential information.

7 13. Within sixty (60) days after the final termination of this litigation, all  
8 documents, transcripts, or other materials afforded confidential treatment  
9 pursuant to this Order, including any extracts, summaries or compilations taken  
10 therefrom, but excluding any materials which in the good faith judgment of  
11 counsel are work product materials, shall be returned to the Producing Party.  
12 In lieu of return, the parties may agree to destroy the documents, to the extent  
13 practicable.

14 14. In the event that any party to this litigation disagrees at any point in these  
15 proceedings with any designation made under this Protective Order, the parties  
16 shall first try to resolve such dispute in good faith on an informal basis. If the  
17 dispute cannot be resolved, the party objecting to the designation may seek  
18 appropriate relief from this Court. During the pendency of any challenge to the  
19 designation of a document or information, the designated document or  
20 information shall continue to be treated as “Confidential” subject to the  
21 provisions of this Protective Order. The designating party shall have the burden  
22 of proving that any document designated as CONFIDENTIAL is entitled to  
23 such protection.

24 15. Nothing herein shall affect or restrict the rights of any party with respect to its  
25 own documents or to the information obtained or developed independently of  
26 documents, transcripts and materials afforded confidential treatment pursuant  
27 to this Order.  
28

1 16. The Court retains the right to allow disclosure of any subject covered by this  
2 stipulation or to modify this stipulation at any time in the interest of justice.

3 IT IS SO STIPULATED.

4 DATED this 22nd day of December 2017.

5 **KAZEROUNI LAW GROUP, APC**

6  
7 By: /s/ Michael Kind  
8 Michael Kind, Esq.  
9 6069 S. Fort Apache Rd., Ste 100  
10 Las Vegas, NV 89148  
11 *Attorneys for Plaintiff*

12 **KLEIN MOYNIHAN TURCO LLP**

13 By: /s/ Neil E. Asnen  
14 Neil Asnen, Esq. (admitted *pro hac vice*)  
15 450 Seventh Avenue, 40th Floor  
16 New York, NY 10123

17 **LEAVITT LAW FIRM**

18 Dennis M. Leavitt, Esq.  
19 Frank A. Leavitt, Esq.  
20 229 Las Vegas Blvd. S.  
21 Las Vegas, NV 89101  
22 *Attorneys for Defendant*

23 IT IS SO ORDERED:

24   
UNITED STATES MAGISTRATE JUDGE

25 DATED: December 26, 2017  
26  
27  
28

1 **EXHIBIT A**

2 **DECLARATION OF COMPLIANCE**

3 I, \_\_\_\_\_, declare as follows:

4 1. My address is \_\_\_\_\_.

5 2. My present employer is \_\_\_\_\_  
6 \_\_\_\_\_.

7 3. My present occupation or job description is \_\_\_\_\_  
8 \_\_\_\_\_.

9 4 I have received a copy of the Stipulated Protective Order entered  
10 in this action on \_\_\_\_\_, 20\_\_\_\_.

11 5. I have carefully read and understand the provisions of this  
12 Stipulated Protective Order.

13 6. I will comply with all provisions of this Stipulated Protective  
14 Order.

15 7. I will hold in confidence, and will not disclose to anyone not  
16 qualified under the Stipulated Protective Order, any information, documents  
17 or other materials produced subject to this Stipulated Protective Order.

18 8. I will use such information, documents or other materials  
19 produced subject to this Stipulated Protective Order only for purposes of this  
20 present action.

21 9. Upon termination of this action, or upon request, I will return and  
22 deliver all information, documents or other materials produced subject to this  
23 Stipulated Protective Order, and all documents or things which I have  
24 prepared relating to the information, documents or other materials that are  
25 subject to the Stipulated Protective Order, to my counsel in this action, or to  
26 counsel for the party by whom I am employed or retained or from whom I  
27 received the documents.  
28

1           10. I hereby submit to the jurisdiction of this Court for the purposes of  
2 enforcing the Stipulated Protective Order in this action. I declare under penalty of  
3 perjury under the laws of the United States that the following is true and correct.

4           Executed this \_\_\_\_ day of \_\_\_\_\_, 2017 at \_\_\_\_\_.

5   Signature: \_\_\_\_\_                      Firm:  
6   Name: \_\_\_\_\_                         Address:  
7   Position: \_\_\_\_\_                     Phone:



1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on December 22, 2017, the foregoing Stipulated  
3 Protective Order was served via CM/ECF to all parties appearing in this case.  
4

5 **KAZEROUNI LAW GROUP, APC**

6 By: /s/ Michael Kind  
7 Michael Kind, Esq.  
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